



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 6, 1998

Mr. John Steiner
Division Chief
City of Austin Law Department
P.O. Box 1546
Austin, Texas 78767-1546

OR98-1143

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 115296.

The Austin Police Department received a request for a report filed against the requestor. You contend that the requested report is excepted from required public disclosure by sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code provides:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

* * * *

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that "the requested records pertain to a pending criminal investigation." You state that you anticipate that "the State will be a party to criminal litigation with respect to the subject matter of the requested information." We find that you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime. We conclude that the requested information may be withheld under section 552.108(a)(1). *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978). *See also* Open Records Decision No. 216 (1978).

We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Gov't Code § 552.108(c); *see Houston Chronicle*, 531 S.W.2d at 187; *cf.* Open Records Decision No. 597 (1991) (basic information in an offense report generally may not be withheld under section 552.103); *see also* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue

¹Because we are able to make a determination under section 552.108, we do not address your argument under section 552.103.

under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 115296

Enclosures: Submitted documents

cc: Mr. Edward P. Colfer
1805 Aquarena Springs, # 811
San Marcos, Texas 78666
(w/o enclosures)